

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM E. LYONS,

Plaintiff,

No. CIV S-09-0201 LKK EFB PS

vs.

COLUMBIA COUNTY SHERIFF'S  
ASSOCIATION, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

This case is before the undersigned pursuant to Eastern District of California Local Rule ("Local Rule") 72-302(c)(21). *See* 28 U.S.C. § 636(b)(1). On October 22, 2009, plaintiff was ordered to show cause, on or before November 4, 2009, why this action should not be dismissed without prejudice or transferred to the Northern District of New York, pursuant to 28 U.S.C. § 1406(a). Dckt. No. 9 at 3-4 (citing *Bennett v. Aurora Behavioral Health Care*, 2009 WL 178489 (C.D. Cal. Jan. 26, 2009) and *Smith v. U.S. Dep't of Ed.*, 2007 WL 4357546 (N.D. Cal. Dec. 11, 2007)). Plaintiff was informed that "[a] failure to timely respond to [the] order to show cause [would] result in a recommendation that this action be dismissed without prejudice." *Id.* at 4.

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1 The deadline to respond has passed, and plaintiff has failed to show cause or otherwise  
2 respond to the court's order.

3 Accordingly, it is hereby RECOMMENDED that this action be dismissed without  
4 prejudice for failure to prosecute and for improper venue. *See* Fed. R. Civ. P. 4(m), 41(b); Local  
5 Rule 11-110; 28 U.S.C. § 1406(a).

6 These findings and recommendations are submitted to the United States District Judge  
7 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days  
8 after being served with these findings and recommendations, any party may file written  
9 objections with the court and serve a copy on all parties. Such a document should be captioned  
10 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections  
11 within the specified time may waive the right to appeal the District Court's order. *Turner v.*  
12 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

13 DATED: November 10, 2009.

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15 EDMUND F. BRENNAN  
16 UNITED STATES MAGISTRATE JUDGE  
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